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JUL 12 2005

**OFFICE OF PETITIONS**

Applicant: Chen  
Appl. No.: 10/688,380  
Filing Date: October 17, 2003  
Title: TREATING SYNDROME X WITH SUBSTITUTED TETRALINS AND INDANES  
Attorney Docket No.: PRD-48-NP  
Pub. No.: US 2004/0171680 A1  
Pub. Date: September 2, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b) filed on June 16, 2005, for the above-identified application.

The request is DISMISSED.

Applicant request that the application be republished because the patent application publication contains a material error, as application published with the wrong specification and claims, as it included the specification and claims of copending application 10/688,572 filed on the same day.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.<sup>1</sup>

The request for corrected publication received on June 16, 2005, was not timely filed under 37 CFR 1.221(b), and it has not been considered because it was not timely filed.

A review of the Office records indicates the application was correctly published. Applicant's representative alleges that the PTO published the wrong application and references the transmittal letter as evidence that the correct specification and claims were filed and that the wrong specification and claims were published. The transmittal letter is not evidence of what

<sup>1</sup>Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

was filed in an application. Applicant may want to file a filing date petition with any evidence of what was filed and received by the Office.

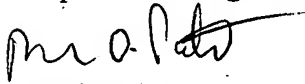
Applicant should request for reconsideration this decision if the filing date petition is granted.

Any questions or requests for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Va. 22313-1450

By facsimile: 703-872-9306 or after July 15, 2005, 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice)



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